

House File 2527 - Introduced

HOUSE FILE 2527
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2304)

A BILL FOR

1 An Act relating to the advertising, promoting, and conducting
2 of certain live musical performances, and making penalties
3 applicable.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **549A.1 Title.**

2 This chapter shall be known and may be cited as the "*Truth in*
3 *Music Advertising Act*".

4 Sec. 2. NEW SECTION. **549A.2 Definitions.**

5 As used in this chapter, unless the context otherwise
6 requires:

7 1. "*Performing group*" means a vocal or instrumental group of
8 one or more individuals that intends to advertise or perform
9 under the name of a recording group or performer or a name
10 substantially similar to a recording group or performer.

11 2. "*Recording group*" means a vocal or instrumental group
12 of one or more individuals, at least one of whose members has
13 previously released a commercial sound recording under that
14 group's name, and in which the individual or individuals have
15 a legal right by virtue of use or operation under the group
16 name without having abandoned the name or affiliation with the
17 group.

18 3. "*Sound recording*" means a work that results from the
19 fixation of a series of musical, spoken, or other sounds,
20 regardless of the nature of the material object, such as a
21 phonograph, disc, tape, wire, digital storage, or other medium
22 in which the sounds are embodied.

23 Sec. 3. NEW SECTION. **549A.3 Production.**

24 1. A person shall not advertise or conduct a live musical
25 performance or production in this state through the use of a
26 false, deceptive, or misleading affiliation, connection, or
27 association between a performing group and a recording group.

28 2. This section does not apply if any of the following
29 conditions are met:

30 a. The performing group is the authorized registrant and
31 owner of a federal service mark for the recording group that is
32 registered in the United States patent and trademark office.

33 b. At least one member of the performing group was a member
34 of the recording group, and that member has a legal right to
35 use or operate under the name of the recording group without

1 having abandoned the name or affiliation with the recording
2 group.

3 c. The live musical performance or production is identified
4 in all advertising and promotion as a salute or tribute.

5 d. The name of the performing group is not so closely
6 related or similar to the name used by the recording group that
7 it would tend to confuse or mislead the public.

8 e. The advertising does not relate to a live musical
9 performance or production taking place in, streamed into, or
10 broadcast into this state.

11 *f.* The performance or production is expressly authorized by
12 the recording group.

13 Sec. 4. NEW SECTION. 549A.4 Enforcement.

14 A violation of section 549A.3 is an unlawful practice under
15 section 714.16, and all the remedies and penalties of section
16 714.16 are available for such a violation.

17	EXPLANATION
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18 The inclusion of this explanation does not constitute agreement with
19 the explanation's substance by the members of the general assembly.

20 This bill relates to the advertising, promoting, and
21 conducting of certain live musical performances.

22 The bill contains a definitions section, which defines
23 "performing group" as a vocal or instrumental group intending
24 to advertise or perform under the name of, or a name
25 substantially similar to, a recording group or performer. The
26 bill defines "recording group" to mean a vocal or instrumental
27 group, at least one of whose members has previously released
28 a commercial sound recording under that group's name, and in
29 which the individual or individuals have a legal right by
30 virtue of use or operation under the group name without having
31 abandoned the name or affiliation with the group. Finally,
32 the bill defines "sound recording" as a work that results from
33 the fixation of a series of musical, spoken, or other sounds,
34 regardless of the nature of the material object in which the
35 sounds are embodied.

1 The bill prohibits a person from advertising or conducting a
2 live musical performance or production in this state through
3 the use of a false, deceptive, or misleading affiliation,
4 connection, or association between a performing group and a
5 recording group.

6 There are six exceptions to this prohibition. First, when
7 the performing group is the authorized registrant and owner of
8 a federal service mark for the recording group. Second, when
9 at least one member of the performing group was a member of the
10 recording group, and that member has a legal right to use or
11 operate under the name of the recording group without having
12 abandoned the name or affiliation with the recording group.
13 Third, when the live performance or production is identified
14 in all advertising as a salute or tribute. Fourth, when the
15 name of the performing group is not so closely related to the
16 name of the recording group that it would tend to confuse the
17 public. Fifth, when the advertising does not relate to a
18 live musical performance taking place in, streamed into, or
19 broadcast into this state. Sixth, when the performance is
20 expressly authorized by the recording group.

21 The bill provides that it is an unlawful practice under Code
22 section 714.16 (consumer frauds) for a person to advertise
23 or conduct a live musical performance or production in this
24 state through the use of a false, deceptive, or misleading
25 affiliation, connection, or association between a performing
26 group and a recording group. Several types of remedies are
27 available if a court finds that a person has committed an
28 unlawful practice, including injunctive relief, disgorgement of
29 moneys or property, and a civil penalty not to exceed \$40,000
30 per violation.